



CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2019-0014]

Notice of Availability and Request for Comment: Revision to the Voluntary Standard for Gates and Enclosures

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of availability and request for comment.

SUMMARY: The U.S. Consumer Product Safety Commission's (Commission or CPSC) mandatory rule, Safety Standard for Gates and Enclosures, incorporates by reference ASTM F1004-21, Standard Consumer Safety Specification for Expansion Gates and Expandable Enclosures. The Commission has received notice of a revision to this incorporated voluntary standard. CPSC seeks comment on whether the revision improves the safety of the consumer products covered by the standard.

DATES: Comments must be received by [INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit comments, identified by Docket No. CPSC-2019-0014, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. CPSC typically does not accept comments submitted by electronic mail (e-mail), except as described below.

Mail/hand delivery/courier/confidential Written Submissions: CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer

Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504-7479.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may e-mail them to: cpsc-os@cpsc.gov.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC-2019-0014, into the “Search” box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Carlos Torres, Project Manager, Division of Mechanical and Combustion Engineering, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987-2504; email: ctorres@cpsc.gov.

SUPPLEMENTARY INFORMATION: Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Commission to adopt mandatory standards for durable infant or toddler products. 15 U.S.C. 2056a(b)(1). Mandatory standards must be “substantially the same as” voluntary standards, or may be “more stringent” than voluntary standards, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the products. *Id.* Mandatory standards may be based, in whole or in part, on a voluntary standard.

Pursuant to section 104(b)(4)(B) of the CPSIA, if a voluntary standards organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under CPSIA section 104, it must notify the Commission. The revised voluntary standard then shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective

180 days after the date on which the organization notifies the Commission (or a later date specified by the Commission in the *Federal Register*) unless, within 90 days after receiving that notice, the Commission responds to the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard, and therefore the Commission is retaining its existing mandatory consumer product safety standard. 15 U.S.C. 2056a(b)(4)(B).

Under this authority, in 2020 the Commission issued a mandatory safety rule for gates and enclosures. The rulemaking created 16 CFR part 1239, which incorporated by reference ASTM F1004-19, Standard Consumer Safety Specification for Expansion Gates and Expandable Enclosures. 85 FR 40100 (July 6, 2020). The mandatory standard included performance requirements and test methods, as well as requirements for warning labels and instructions, to address hazards to children. In 2021, ASTM revised the voluntary standard for gates and enclosures. On September 28, 2021, the Commission issued a direct final rule to update the mandatory standard for gates and enclosures to incorporate by reference that revision known as ASTM F1004-21 (86 FR 53535).

In July 2022, ASTM published a further revised version of the incorporated voluntary standard. On July 25, 2022, ASTM notified the Commission that it had approved and published the revised version of the voluntary standard. CPSC staff is assessing the revised voluntary standard to determine, consistent with section 104(b)(4)(B) of the CPSIA, its effect on the safety of consumer products covered by the standard. The Commission invites public comment on that question to inform staff's assessment and any subsequent Commission consideration of the revisions in ASTM F1004-22.¹

The existing voluntary standard and the revised voluntary standard are available for review in several ways. ASTM has provided on its website (<https://www.astm.org/CPSC.htm>),

¹ The Commission voted unanimously (5-0) to approve this notice.

at no cost, a read-only copy of ASTM F1004-22 and a red-lined version that identifies the changes made to ASTM F1004-21. Likewise, a read-only copy of the existing, incorporated standard is available for viewing, at no cost, on the ASTM website at:

<https://www.astm.org/READINGLIBRARY/>. Interested parties can also download copies of the standards by purchasing them from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428-2959; phone: 610-832-9585; <https://www.astm.org>.

Alternatively, interested parties can schedule an appointment to inspect copies of the standards at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone: 301-504-7479; email: cpsc-os@cpsc.gov.

Comments must be received by **[INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Because of the short statutory time frame Congress established for the Commission to consider revised voluntary standards under section 104(b)(4) of the CPSIA, CPSC will not consider comments received after this date.

Alberta E. Mills, Secretary,
Consumer Product Safety Commission.
[FR Doc. 2022-16693 Filed: 8/3/2022 8:45 am; Publication Date: 8/4/2022]